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April 1, 2022

BY ECF

Honorable Vera M. Scanlon
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Payamps v. City of New York, et al.
22-CV-00563 (AMD) (VMS)

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney representing defendants the City of New York (“City”), Mayor Bill de Blasio, Commissioner Dermot Shea, and NYPD Chief of Department Terence Monahan (collectively “defendants”) in the above-referenced matter.¹ Defendants write to respectfully request a 60-day enlargement of time, from April 12, 2022, until June 13, 2022, to respond to the complaint. The City also requests that the Court, *sua sponte*, enlarge the time for individual defendants Lance, Johnson, and Auguste to respond to the complaint. This is the first request for an enlargement of time to respond to the complaint. Plaintiff consents to this request.²

Plaintiff filed the complaint in this action on January 31, 2022, alleging, *inter alia*, that on June 4, 2020, members of the New York City Police Department (“NYPD”) subjected him to false arrest and excessive force after plaintiff was asked to leave the scene of an on-going police protest,

¹ Senior Counsel Michael Pesin-Virovets is the assigned lead counsel handling this matter - he is in the process of applying for admission to this Court. Mr. Pesin-Virovets may be reached at (212) 356-2617 or mpvirove@law.nyc.gov.

² We apologize that this request was not made in accordance with this Court’s rule requiring all requests for extensions to be filed at least two business days in advance.

which plaintiff alleges he was merely observing and not actively participating in. The City was served in this matter on March 22, 2022, and, assuming service was proper, its current deadline to respond to the complaint is April 12, 2022. (ECF No. 10).³

To respond to these allegations in accordance with defendants' obligations under Rule 11 of the Federal Rules of Civil Procedure, this Office needs to obtain the records pertaining to plaintiff's underlying arrest and criminal prosecution which, upon information and belief, are sealed pursuant to New York Criminal Procedure Law ("CPL") § 160.50. To that end, this Office is in the process of forwarding an unsealing release pursuant to CPL § 160.50 to plaintiff for execution, as well as medical releases to the extent that plaintiff is claiming physical injuries. The requested enlargement of time would allow this Office to receive the necessary releases, request and obtain the necessary documents, and meaningfully respond to complaint.

Additionally, the proposed *sua sponte* extension would allow time for the individual defendants to request representation and, if they so request, for this Office to make determinations regarding representation. *See Mercurio v. City of New York, et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting *Williams v. City of New York, et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)). Additionally, the proposed extension will also allow all defendants to respond to the complaint together if possible.

Accordingly, defendants respectfully request an extension, and a corresponding *sua sponte* enlargement of time for defendants Lance, Johnson, and Auguste, until June 13, 2022, to answer or otherwise respond to the complaint.

Thank you for your consideration herein.

Respectfully submitted,

/s/

Carolyn Depoian
Senior Counsel

cc: **By ECF**

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Cohen Green PLLC
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Remy Green
Cohen & Green
Attorney for Plaintiff

³ All other named defendants were served on March 11, 2022.

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